

REMARKS

Claim 1 was rejected under Section 102 as being anticipated by Lee.

Claim 1 calls for covering a polysilicon gate structure with a mask to prevent the formation of a silicide on the gate structure. The mask in Lee is asserted to be the silicon nitride hard mask 28. But this cannot be so. Lee is explicit that it is the mask 28 that is “the silicide block out mask.” See column 4, lines 3-7. If it is the mask 28 that prevents the formation of the silicide, it cannot be the mask 26 that does so. If the mask 26 were the mask to prevent silicide formation, the mask 28 would be superfluous. Therefore, it is respectfully submitted that the mask 28 is not the claimed mask.

Claim 1 goes on to call for forming a sidewall spacer that extends along the length of said polysilicon gate structure and at least partially along the length of said mask. The Examiner asserts, surprisingly, that the sidewall spacer is the spacer 12. But this cannot be so. The sidewall spacer in accordance with the language of Lee himself and conventional terminology is the item 30. In particular, note that Lee calls the item 12 a “polysilicon oxide layer.” See column 3, lines 51 and 52. However, he calls the items 30 robust nitride sidewall spacers. See column 4, lines 5 and 6.

Thus, the claim cannot read on the structure of Lee since the sidewall spacer 30 does not extend along the length of the polysilicon gate structure, which must be the item 10 on the left and at least partially along the length of the mask. The mask 28 is not even associated with the gate 10 on the left, it is associated only with the gate 10 on the right. Therefore, reconsideration is respectfully requested.

Claim 14 was rejected under Section 103 on the combination of Lee in view of Gardner. However, neither Lee or Gardner suggests forming a metal gate replacement on that gate structure which has the silicide formation prevented on it. For example, in Lee, silicide forms on the logic FET on the left and not on the memory FET on the right. But, as the Examiner concedes, Lee never thought to pick the one on the right to form a metal gate replacement process. Given the thick structure 26, that might be tough anyway.

Gardner simply says form a metal gate replacement process, but he gives no insight to select the one on the right in Lee. Therefore, a *prima facie* rejection is not made out because there is no teaching of why to pick the one on the right to form a metal gate replacement as

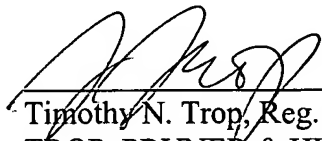
opposed to the one on the left which would seem the more logical candidate given that it is free of the covering 26.

Alternatively, Gardner would teach replacing both gate structures according to the rationale cited by the Examiner of enhancing device performance by increasing the speed. In other words, the asserted rationale does not teach converting only one of the gates to a metal gate replacement, it would teach converting both, which teaches away from the claimed invention.

In view of these remarks, reconsideration of the rejection is respectfully requested.

Respectfully submitted,

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